

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

DCI A/S, and
KELSEN, INC.,

Plaintiffs,

-against-

DANCO IMPORT, INC., and
JACOBSENS BAKERY LTD.,

Defendants.

Civil Action No. 09-CV-8047 (VM)

DEFENDANT’S FED. R. CIV. P. 26(A)(1) INITIAL DISCLOSURES

Pursuant to Fed. R. Civ. P. 26(a)(1), Defendant Jacobsens Bakery Ltd.

(“Jacobsens”) provides its initial disclosures to Plaintiffs herein as follows:

(A) Individuals and Subject Matter

The following individuals are likely to have discoverable information that Jacobsens may use to support its claims and defenses, and which is relevant to disputed facts alleged with particularity in the pleadings in this case:

Name	Subject Matter
Jan Jacobsen Managing Director Jacobsens Bakery Ltd. (Mr. Jacobsen may be contacted through counsel for Defendant-Counterclaim Plaintiff)	<ul style="list-style-type: none">• Settlement discussions and agreement with Kelsen Group A/S• History of Wonderful Copenhagen Butter Cookie Tin design• Use of Jacobsens Wonderful Copenhagen Butter Cookie Tins• Circumstances surrounding the sales of cookies in the US in the Wonderful Copenhagen Butter Cookie Tins

Name	Subject Matter
<p>Mogens Yde Knudsen Zacco</p> <p>(Mr. Knudsen may be contacted through counsel for Defendant-Counterclaim Plaintiff)</p>	<ul style="list-style-type: none"> Settlement discussions and agreement between Jacobsens and Kelsen Group A/S
<p>Glud & Marstrum</p>	<ul style="list-style-type: none"> History of Wonderful Copenhagen Butter Cookie Tin design History of Kelsen Group A/S butter cookie tin design Lack of actual confusion between the Wonderful Copenhagen Butter Cookie Tins and the Putative Royal Dansk Trade Dress and/or U.S. Reg. No. 2,954,852
<p>Third parties using similar marks or trade dress features on similar goods in the United States</p>	<ul style="list-style-type: none"> Similar marks and/or trade dress features on similar goods in the United States Other lawsuits brought by Kelsen Group A/S and/or Kelsen, Inc. to enforce the Putative Royal Dansk Trade Dress and/or U.S. Reg. No. 2,954,852
<p>Brian Ronsholdt Managing Director Kelsen Group A/S</p>	<ul style="list-style-type: none"> Settlement discussions and agreement with Jacobsens Kelsen Group A/S' knowledge of Wonderful Copenhagen Butter Cookie Tins Butter cookie tin products of Kelsen Group A/S and the rights claimed by Kelsen Group A/S
<p>Lars Norgaard Sales Manager Kelsen Group A/S</p>	<ul style="list-style-type: none"> Kelsen Group A/S' knowledge of Wonderful Copenhagen Butter Cookie Tins The activities of Kelsen Group A/S and Kelsen, Inc. in the United States
<p>Employees of Kelsen Group A/S and/or Kelsen, Inc.</p>	<ul style="list-style-type: none"> Circumstances surrounding the knowledge of Wonderful Copenhagen Butter Cookie Tins Other lawsuits brought by Kelsen Group A/S or Kelsen, Inc. to enforce the Putative Royal Dansk Trade Dress and/or U.S. Reg. No. 2,954,852
<p>Plaintiffs' company representative(s)</p>	<ul style="list-style-type: none"> Plaintiffs' activities, trademark registrations and claims in this Action

Name	Subject Matter
Plaintiffs' customers	<ul style="list-style-type: none"> • Circumstances surrounding Kelsen and Kelsen Inc.'s knowledge of Wonderful Copenhagen Butter Cookie Tins • Lack of actual confusion between the Wonderful Copenhagen Butter Cookie Tins and the Putative Royal Dansk Trade Dress and/or U.S. Reg. No. 2,954,852
Witnesses suitable for impeachment purposes	
Witnesses identified during discovery in this proceeding	
Witnesses identified by Plaintiffs	

(B) Documents and Things

Jacobsens may use the following categories of documents to support its claims and defenses:

1. Trademark registrations and file histories for registered trademarks owned by Plaintiffs;
2. Trademark registrations and file histories for registered trademarks owned by third parties that are similar to Plaintiffs' marks;
3. Materials acquired from third parties showing the use of similar marks and similar claimed trade dress features on similar products and/or product design or packaging;
4. Marketing, advertising and press releases;
5. Correspondence;
6. Documents and things sufficient to impeach Plaintiffs' or any of Plaintiffs' witnesses;
7. Documents and things discovered during discovery in this proceeding from Plaintiffs or any other source;
8. Documents and things identified, produced or introduced by Plaintiffs.

Documents referenced in sections (1) and (2) are publicly available through the PTO, materials referenced in (3) will be acquired during discovery and/or are in the possession

of Jacobsens and/or its counsel; documents referenced in sections (4) and (5) are in the possession of Jacobsens and/or its counsel, and documents referenced in paragraphs (6), (7) and (8) are in the possession of Plaintiffs, Jacobsens or have not yet been discovered in this matter.

(C) Categories of Damages

1. Computation

- (a) Damages as the prevailing defendant under Plaintiffs' Lanham Act and related claims, and as the prevailing party as to Jacobsens' declaratory judgment counterclaims, including the recovery of Jacobsens attorneys' fees and costs;
- (b) Damages comprised of the costs of defending this Action from December 3, 2009, including Jacobsens' attorneys' fees and costs.

2. Documents (located at the offices of Alston & Bird)

- (a) Invoices and billing records relating to attorneys' fees and costs incurred by Jacobsens in defending this Action.

(D) Insurance Agreement

Jacobsens does not have an insurance agreement applicable to this case.

Dated: February 12, 2010

Respectfully Submitted,

ALSTON & BIRD LLP

/s/ Sarah C. Hsia

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Attorneys for Defendant Jacobsens Bakery Ltd.

CERTIFICATE OF SERVICE

I hereby certify that on February 12, 2010, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing via electronic mail to all counsel of record.

/s/ Sarah C. Hsia _____

Attorney for Jacobsens Bakery LTD